

Applicability of State Law to Federal Savings Associations

Summary Conclusion: The Homeowners' Loan Act and OTS regulations govern the relationships between a federal savings association and depositors, borrowers, and non-accountholders who use the association's services.

Date: June 26, 2001

Subjects: Home Owners' Loan Act/Savings Association Powers; Affiliate Transactions

P-2001-7

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Office of Thrift Supervision
Department of the Treasury

Chief Counsel

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June 26, 2001

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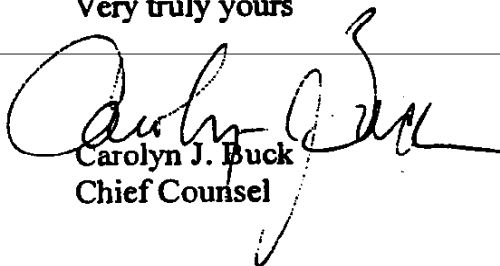
Dear []:

Thank you for your letter of June 4, 2001 to Director Seidman regarding the applicability to federal savings associations of Section 4.112 of the Texas Business & Commerce Code, captioned "Payment of Check at Par." Your letter has been referred to me for response.

The Home Owners' Loan Act, 12 U.S.C. 1461 *et seq.*, (HOLA), and regulations promulgated by the Office of Thrift Supervision (OTS) under the authority of the HOLA, govern the relationships between a federal savings association and depositors, borrowers, and non-accountholders who use the association's services. In this regard, please see 12 U.S.C. §§ 1463(a)(1) and 1464(a), and 12 C.F.R. §§ 545.2, 557.11-557.13, and 560.2. OTS has not addressed the specific question you ask. In a somewhat analogous context, however, OTS has concluded that a federal savings association is not subject to local ordinances that purport to prohibit a financial institution from charging a fee to non-accountholders for using that institution's automated teller machine. OTS Op. Chief Counsel (November 22, 1999). A federal court has agreed with this conclusion. *See Bank of America v. City and County of San Francisco*, No. C-99-4817-VRW (N.D. Cal. June 30, 2000), *appeal pending*, Nos. 99-17590, 99-17591 (9th Cir.).

I trust this is responsive to your inquiry. If you have any further questions, please feel free to contact me at the number noted above or Timothy P. Leary (Counsel, Banking & Finance) at (202) 906-7170.

Very truly yours


Carolyn J. Buck
Chief Counsel

cc: Ellen Seidman, Director